

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUL 26 1999

In the Matter of

Truth-in-Billing
and
Billing Format

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 98-170

PETITION FOR A WAIVER OR STAY

SBC Communications Inc.¹ (SBC) hereby respectfully requests that the Commission grant the USTA Petition for a Waiver or Stay filed on behalf of all its members and, in addition, requests an expedited waiver, or in the alternative a stay, of one additional requirement of the Truth in Billing rules, pending reconsideration of the final rules. In addition, SBC also requests an expedited waiver, or in the alternative a stay of the schedule for implementation of certain other Truth in Billing rules, pending reconsideration of the schedule for implementation of those rules.

I. USTA Petition for a Waiver or Stay

USTA filed a Petition for a Waiver or Stay (USTA Petition) of one aspect of the new regulations on behalf of all its members, the requirement to highlight new service providers on the telephone bill. No SBC company is able to comply with the requirement for "notification to the customer that a new provider has begun providing service," by September 6, 1999. Further, implementation of that particular requirement as written would be, as clearly explained in the USTA Petition, extraordinarily costly and

¹ SBC Communications Inc. is the parent company of various subsidiaries, including wireline telecommunications carriers. These subsidiaries include Southwestern Bell Telephone Company (SWBT), Pacific Bell, Nevada Bell, and The Southern New England Telephone Company (SNET). The abbreviation "SBC" shall be used herein to include each of these subsidiaries as appropriate in the context.

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SBC Communications Inc.
July 26, 1999

impossible to accomplish by the effective date for the reasons stated by USTA. In addition, the rule as written would cause greater, rather than less, customer confusion about carrier billing charges on the bill. For all of those reasons, SBC urges the Commission to grant the USTA Petition for A Waiver or Stay for all USTA members as quickly as possible to facilitate the expeditious development of the suggested alternative that can hopefully be supported by the entire industry.

II. Separating Charges by Service Provider

Upon reviewing its bills to ascertain how quickly SBC companies could fully implement the rules, SBC has become concerned that the provision requiring charges to be separated by service providers could be misinterpreted to require separation of affiliated entities all providing services billed on the same bill. It seems apparent from the discussion in Paragraph 32 of the Truth-in-Billing Order that the Commission did not intend any such result. Thus, SBC seeks clarification that the requirement to separate charges by service provider does not require a separation of charges for services marketed by a single entity, even if some of those services are actually provided by separate legal entities, so long as the inquiry contact number for the services would be the same. If the Commission did intend that all charges be separated by service provider, even where those service providers are affiliated entities, then SBC seeks a waiver, or in the alternative a stay, pending reconsideration of that interpretation of the requirement to separate charges by service provider. If, however, the Commission could simply clarify that the requirement to separate charges by service provider does not require separation of charges provided by separate affiliated entities or entities providing a package of services under a marketing agreement, then no waiver or stay would be needed as to this requirement.

SBC companies routinely break out billing by separate providers on separate bill pages or separate segments within a page, but do not always identify the affiliates of SBC

or the SBC company that is issuing the bill as a separate provider, nor does SBC necessarily know whether the entities for which SBC provides billing and collection services always make any such distinction. Thus, for example, charges for Call Notes, a voice mail service, may appear in the Southwestern Bell Telephone Company portion of the bill, even though technically Call Notes is provided by a separate legal entity that is an affiliate of Southwestern Bell Telephone Company and SBC.

This problem is greatly exacerbated when services offered as part of a service package are provided by several different affiliates of the same corporation. The Commission noted this potential problem in Paragraph 32 of the Truth in Billing Order as one reason the alternative of listing charges by service type was rejected.² Thus, it appears that the Commission was regarding affiliated entities and other parties operating under contractual marketing agreements as a single "service provider" for purposes of the Truth in Billing rules. Otherwise, the requirement to separate charges by service provider would pose the very same problems as the rejected requirement that each component of a service package be listed and priced separately. Any potential for misinterpretation can easily be resolved by clarification that no separation of the charges of affiliated entities or other companies providing a package of services is required, so long as there is one inquiry contact point for those services. Therefore, SBC conditionally seeks waiver of this particular aspect of the Truth in Billing rules until the Commission can consider and rule upon SBC's Petition for Reconsideration only if there is no clarification that resolves the issue.

III. Scheduling Problems

SBC also seeks a temporary waiver or, in the alternative a temporary stay, of the schedule for implementation of specific provisions of the Truth in Billing Guidelines to allow SBC companies sufficient time to bring their billing systems into compliance with

² *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 98-170, Released May 11, 1999.

the requirements of those rules. As part of our continuing effort to educate customers and combat cramming, the SBC companies have continued to fine tune their billing practices and to provide customers with a bill format that would be clearer, simpler and easier to read. However, there are still some differences in the various company billing systems, resulting in variances in the timeframes required to bring the billing systems into full compliance with the Truth in Billing Guidelines. For that reason, SBC seeks a temporary waiver or, in the alternative, a temporary stay of the schedule of certain of the Truth in Billing requirements on a company by company basis solely for the purpose of allowing those individual companies time to bring their billing systems into full compliance with those requirements, as set forth below:

A. Southern New England Telephone Company (SNET)

SNET currently has a billing project in progress that will enable SNET to list the carriers for casually dialed calls, but at present SNET has no way to identify the carrier when charges are submitted through a billing aggregator and the aggregator doesn't identify the underlying carrier. Thus, until this billing project is completed, SNET will not be able to fully comply with the requirement to provide the name of the service provider associated with each charge, as required by §64.207(a) of the Final Rules, because the SNET billing system does not have the capability to recognize sub-Carrier Identification Codes (Sub-CICs). The current billing project is scheduled for completion by October 2, 1999, and at that time the "Sub-CIC" problem will be cured and SNET will be able to fully comply with the requirement to identify each service provider.³ This request for a waiver or stay of the schedule for implementation of the Truth in Billing requirements is very limited in scope and is requested for the sole purpose of allowing the

³ This statement does not address the issue discussed in Part II above because it is assumed that the Commission did not intend to require the separation of charges sold by one entity just because some of those services might be provided by an affiliated entity or an entity operating under some type of marketing agreement.

Commission to rule on SBC's Petition for Reconsideration of the implementation schedule. The modification that will be sought to that schedule for SNET on this issue is a mere one month period of time from the estimated effective date of the rules on September 6 to the estimated completion date of the SNET billing project on October 2, 1999. As previously stated, that billing project was already underway when the Truth in Billing Order was released and SNET needs a small amount of time to complete the project.

B. Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell

SNET is the only SBC Company currently able to clearly distinguish between deniable and non-deniable charges on its bill today. In order for the other SBC companies to make the billing system changes necessary to specifically distinguish between deniable/non-deniable charges on a customer's bill, most of the mainline billing programs and multiple customer information databases will be impacted. Virtually every dollar billed to a customer will have to be classified, bucketed and displayed appropriately, so that it is clearer to the customer what charges are required to be paid in order to avoid disconnection of their local service.

A typical timeline for a major billing project such as this spans about nine to twelve months from inception to implementation. SBC is here committing that SWBT, Pacific Bell and Nevada Bell will do their best to try to meet a March 2000 implementation date in order to allow all SBC companies to be in full compliance with this Truth in Billing requirement by that time, although for a project of this magnitude, this is a very aggressive schedule. Implementation on any more aggressive schedule would not allow time for proper programming and testing of these changes and could jeopardize the billing project results, particularly in a timeframe that necessarily overlaps the Y2K project. Substantial time and resources have necessarily been dedicated by SBC to the Y2K project, but if a conflict were to occur, SBC companies would have to give

precedence to solving Y2K problems. SBC companies (with the exception of SNET) have already begun the planning process to allow SBC to bring its billing systems into full compliance with the "deniable/non-deniable" requirement of the Truth in Billing requirements by March of the year 2000.

This request for temporary waiver or, in the alternative for temporary stay, is only for the purpose of allowing time for the Commission to reconsider the implementation schedule of the Truth in Billing requirements, as requested in SBC's Petition for Reconsideration. That Petition seeks reconsideration of the schedule solely for the purpose of allowing the massive billing project necessary to implement this requirement to proceed in an orderly fashion to achieve a clear and accurate designation of deniable/non-deniable charges on the customer's bill. SBC is only seeking an extension of the implementation schedule for approximately seven months in its Petition for Reconsideration on this issue, the very minimum amount of time required to make the necessary changes to its billing systems to allow Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell to identify deniable/non-deniable charges on its telephone bills.

For all of the above reasons, SBC urges the Commission to grant a waiver of the requirement that charges be separated by service provider on the bill and a waiver of the schedule for implementation of specific portions of the Truth in Billing requirements on an individual local exchange company basis, as outlined above, pending the Commission's Order on Reconsideration of those issues. Alternatively, if the Commission determines that a temporary stay would be the more appropriate means of accomplishing that result, SBC would show that this petition meets the legal requirements for a stay, as set forth in *Washington Metro Area Transit Comm'n*.⁴

⁴ 559 F. 2d 841, 842-843 (D.C. Cir. 1977).

IV. SBC Has Satisfied the Standard for Extraordinary Relief

A. SBC Is Likely To Prevail On The Merits

SBC is very likely to prevail on the merits on its Petition for Reconsideration of the requirement to separate charges by service provider, to the extent that the Commission meant to require the separation of charges billed by separate affiliates and marketing partners of the same corporation. Such a requirement would effectively bar packaged service offerings, which was clearly not the intent of the Order, as evidenced by the discussion in Paragraph 32 of the Order. Thus, to interpret that requirement such that providers would be required to separate a service into piece parts would be arbitrary and capricious and such a requirement could not stand up on appeal.

Further, SBC is also very likely to prevail on the merits of its Petition for Reconsideration of the schedule for implementation of the Truth in Billing requirements. It is arbitrary and capricious for the Commission to order major billing changes without a record to support the fact that it is possible to accomplish such programming changes on an accurate and efficient basis within the timeframe allotted. For that reason, SBC is very likely to prevail on the merits of its Petition for Reconsideration of the schedule for implementation of the Truth in Billing requirements.

B. SBC Will Suffer Irreparable Harm Absent A Stay

Absent clarification or a stay, SBC would be prohibited from packaging its services in a market where packaging is a very valuable competitive tool. Further, if SBC were to be required to make the billing system changes on an emergency basis to avoid being in violation of the rules, it would have to divert resources from the critical Y2K effort in an attempt to expedite the billing changes necessary to allow it to bring its billing system into compliance with the Truth in Billing requirements on an emergency basis. Plunging into the system changes without adequate planning could cause errors that would adversely impact other aspects of the billing systems, with the potential for

causing billing system failures that could affect millions of end user customers. Any such billing malfunctions would seriously damage SBC's corporate image as a reputable and efficient telecommunications service provider as well.

The potential for irreparable competitive harm from any widespread billing system failure at this crucial juncture in the transition from a regulated marketplace to a fully competitive marketplace is enormous. For all of those reasons, SBC would suffer not only needless and extraordinary expense if these billing changes were required to be completed in less than a reasonable period of time, but would also suffer unrecoverable damage to its position as a viable competitor in the very competitive telecommunications marketplace by reason of the inability to offer packaged services and the damage to its business reputation that would result from any widespread billing failure incurred as a result of a rushed billing project.

C. A Stay Will Not Harm Others

No harm will come to consumers or any other entities as a result of the granting of the requested stay. Customers would not be well served by implementation of billing changes on a schedule that does not allow careful planning and execution of those billing changes. Harm to consumers could very well result from denial of the requested stay, however, if that denial resulted in a rushed billing project with errors caused by the haste and inadvertent damage to other billing functions. Further, requiring the separation of charges by each affiliate service provider or marketing partner, which would result in the inability to offer a package of services, would cause harm to consumers by denying those consumers the price break offered on such services.

D. A Stay Is In The Public Interest

A stay will allow time for the Commission to rule on the Petitions for Reconsideration and avoid the wasted expense of expedited efforts to comply with requirements that may change when the Commission rules on the Petitions for


Reconsideration. Further, as shown above, it is not in the public interest to require billing system changes on such an expedited basis that there is serious potential threat of errors that could affect the accuracy of customer bills on charges that are not related to the intended changes to the billing system. In addition, it is certainly not in the public interest to require massive rushed changes to the billing system while the Y2K effort is being completed.

V. Conclusion

For all of the reasons cited above, SBC strongly urges the Commission to grant its requested waiver pending the issuance of an Order on Reconsideration of the limited issues set forth herein, or, in the alternative, for a temporary stay of those portions of the Truth in Billing requirements described above to allow time for a ruling on the Petitions for Reconsideration of the Final Rules set forth in the Truth-in-Billing Order.

Respectfully Submitted,

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July 26, 1999

Certificate of Service

I, Mary Ann Morris, hereby certify that the foregoing "Petition For A Waiver Or Stay" in CC Docket No. 98-170 has been served on July 26, 1999 to the Parties of Record.


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